IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Crl.Rev.Pet.No. 426 of 2000()

MC.91/1999 of CHIEF JUDICIAL MAGISTRATE, ALAPPUZHA DT.22.4.2000.
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REVN. PETITIONERS: PETITIONERS
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1. **M.LALI,**
   KOORIKATTU VEETTIL,
   CHERAMANGALAM,
   KANJIKUZHY VILLAGE.

2. **ELIZABETH @ EMILI.K.,**
   ABRAHAM (MINOR),
   (MINOR REP.BY GUARDIAN/ MOTHER 1ST PETITIONER M.LALI)

BY ADV. SRI.P.VIJAYA BHANU
SMT.MINI JOHN PAREMALIL

RESPONDENT: COUNTER PETITIONER

DR.K.M.ABRAHAM,
KOORIKATTIL VEEDU,
VELLAKKINAR WARD, ALAPPUZHA.

BY ADV. SRI.P.G.THAMPI
SRI.S.SANAL KUMAR
PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.426 of 2000

DATED THIS THE 19TH JUNE 2007

ORDER

The revision petitioners are the petitioners in M.C.No. 91/99 in the file the Court of the Chief Judicial Magistrate, Alappuzha wherein the claim for maintenance is made under Section 125 Cr.P.C. for the 2nd petitioner, who is said to be the illegitimate child of the respondent. It is the version of the petitioners that the counter petitioner/respondent is a retired Medical Officer and after retirement he was conducting a private clinic. The first petitioner went to the clinic for treatment and intimacy developed and she gave birth to a child on 12-8-1986, i.e.the 2nd petitioner. The counter petitioner has got a legally married wife and children. The first petitioner filed M.C.No.24/90 before the Chief Judicial Magistrate Court, Alappuzha. The matter was settled on receipt of Rs.25,000/- from the counter petitioner. Subsequently M.C.No.16/1993 was filed which was subsequently renumbered as M.C.No.5/95. The same was decreed allowing maintenance at the rate of Rs.300/- per month.

But on revision, the Sessions Court set aside the order and remanded the matter. Thereafter, the case was renumbered as 91/99. The revisional court allowed the prayer of the counter petitioner to apply for D.N.A. test to disprove the paternity of the child. The counter petitioner applied for D.N.A. test and the same was allowed. The Forensic Science Laboratory informed that the expenses would work out to Rs.10,000/- and that the parties, mother, child and the alleged father should come to the Laboratory on a specific date along with two passport size photographs. The court below directed the parties to produce two passport size photographs within seven days. The petitioners failed to produce the same. It is mentioned in the revision petition that the counter petitioner produced the photographs on 10-3-2000 and deposited a sum of Rs.10,000/-. The case was posted to 30-3-2000. On the above date she submitted that she has filed a petition before the Adalat for giving the case file to her on the allegation that the counsel did not handover the file to her. The case was again posted to 7-4-2000. Both parties appeared before the Adalat and it was

found that there is no chance for compromise. Again the case was posted to 14-4-2000. On 14-4-2000 the petitioners were present, but they were not willing to produce the photographs. The case was subsequently posted to 22-4-2000. On that day the petitioners were absent and no application was filed. It is the plea of the first revision petitioner herein that she could not comply with the order of the court below as she had no legal advise and that it so happened on account of ignorance. She has sought for a chance to undergo DNA test.

2. The petition was stiffly opposed by the counsel for the respondent. It is stated that the respondent right now is aged 73 years and that he has been continuously harassed by the revision petitioners so long. It is stated that at the time of the marriage of his daughter, the first revision petitioner filed the first M.C. claiming maintenance and in order to avoid the consequent indignities, he settled the matter giving her a sum of Rs.25,000/-. It is pointed out that the 2nd revision petitioner, the alleged illegitimate, child is aged more than 20 years now. It is pointed out that the first revision petitioner is guilty of

serious latches and her conduct is totally unjustified.

3. I find that the 2nd M.C. was filed in 1993. Subsequently the matter was remanded by the revisional court allowing the application of the respondent for permission to undergo D.N.A.test. It is admitted in the present revision petitioner itself that the respondent has complied with the required formalities. But the revision petitioners, despite allowing repeated posting dates, did not comply with the order of the court to produce the photographs. Her explanation is totally inadequate.

In the circumstances, I find that the first revision petitioner is guilty of serious latches. Hence, I find that there are no grounds to allow the revision petition and the same is dismissed.

Sd/-

K.R.UDAYABHANU, JUDGE

ks. **TRUE COPY**

P.S.TO JUDGE

K.R.UDAYABHANU, J

CRL.R.P.NO.426 of 2000

ORDER

19-6-2007